

IN THE CHANCERY COURT OF SHELBY COUNTY, TENNESSEE  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

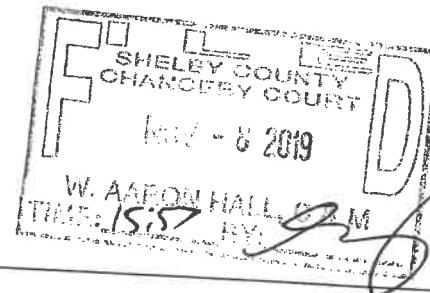
JAMES WISEMAN,  
Plaintiff,

v.

CH- 19-1566 Part 1

NATIONAL COLLEGIATE ATHLETIC  
ASSOCIATION,  
Defendant, and

THE UNIVERSITY OF MEMPHIS,  
Nominal Defendant.



VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

TO THE HONORABLE CHANCELLORS OF THE CHANCERY COURT OF  
SHELBY COUNTY, TENNESSEE:

COMES NOW the Plaintiff, James Wiseman, by and through counsel, Randall J. Fishman, of the law firm BALLIN, BALLIN & FISHMAN, P.C., and files this Verified Complaint for Declaratory Judgment and Injunctive Relief against Defendant, National Collegiate Athletic Association ("NCAA"), and Nominal Defendant, University of Memphis, and in support thereof would state and show as follows:

PARTIES

1. Plaintiff James Wiseman is an adult male who is currently enrolled and attending the University of Memphis located in Memphis, Shelby County, Tennessee.
2. Defendant NCAA is an unincorporated association of private and public colleges and universities which governs intercollegiate athletics, with its principal place of business

- located at 700 West Washington Street, Indianapolis, Indiana 46206.
3. Pursuant to TENN. CODE ANN. § 20-2-202(b), service of process on the NCAA may be had by serving the Tennessee Secretary of State.
  4. Nominal Defendant University of Memphis is a public university located at 3720 Alumni Ave., Memphis, TN 38152. It is a main affiliate and partner with the Tennessee Board of Regents. The University of Memphis can be served with legal process and notice of legal process at the Office of the Athletic Director, Laird Veatch, 570 Normal, AOB Room 139, University of Memphis, Memphis, TN 38152.
  5. The University of Memphis is a Division I member school of the NCAA.

#### JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to, *inter alia*, TENN. CODE ANN. § 16-11-103.
7. Venue is proper in this Court pursuant to, *inter alia*, TENN. CODE ANN. § 20-4-101, because the cause of action arose within Shelby County, Tennessee.

#### SUMMARY OF DISPUTE

8. This Verified Complaint for Declaratory Judgment and Injunctive Relief concerns the Plaintiff's immediate eligibility to compete in men's basketball for the University of Memphis for the 2019-2020 season.
9. The NCAA released a final amateurism certification with respect to Mr. Wiseman on or about May 29, 2019. The NCAA subsequently sent Notice of Inquiry to the University of Memphis stating that it believed Wiseman was certified in error, but representing to the University that the NCAA would honor its previous eligibility decision.

10. On or about Oct. 31, 2019, the University of Memphis received a bylaws interpretation from the NCAA purporting to state that certain recruiting violations had taken place in or around the summer of 2017.
11. On or about Nov. 5, 2019, the NCAA communicated to the University of Memphis that it deemed Mr. Wiseman ineligible based on the alleged recruiting violations.
12. Based on the recitation of facts set forth hereinbelow, Mr. Wiseman would submit that the bylaws interpretation and effective revocation of his eligibility are arbitrary and capricious, and contrary to the express language of the NCAA's own bylaws.
13. Mr. Wiseman will suffer immediate and irreparable injury if he is excluded from intercollegiate competition pending review and appeal process by and between the University of Memphis and the NCAA. An immediate temporary restraining order is necessary to maintain the status quo and to preserve Mr. Wiseman's ability to compete for the University of Memphis in the 2019-2020 season.

#### STATEMENT OF FACTS

14. Mr. Wiseman is a 7'0" freshman basketball player for the University of Memphis. Mr. Wiseman was a consensus five-star recruit in the 2019 class and is widely considered a potential first-round NBA draft pick. Mr. Wiseman was held by many to be the top recruit in the country for the 2019 class.
15. Mr. Wiseman is part of an incredibly talented 2019 recruiting class, and the Memphis Tigers are expected to have a highly successful season in 2019-2020. The prospect of missing some or all of Mr. Wiseman's freshman season at the University of Memphis based on the arbitrary and capricious ruling of the NCAA would have a significant

negative impact on both Mr. Wiseman's college career and his future marketability as a professional player.

16. Mr. Wiseman is a native of Nashville, Tennessee. His mother is Donzaleigh Artis and his sister is Jaquarius Greer.
17. Anthony "Penny" Hardaway is a Memphis native and was a student athlete at Memphis State University from 1991-93. Mr. Hardaway was drafted to play in the NBA in 1993 and played professionally until approximately 2007.
18. In 2008 Mr. Hardaway donated \$1 million to the University of Memphis to construct the Sports Hall of Fame. Mr. Hardaway has also provided assistance to individuals and families in Memphis throughout his career.
19. In 2017, Mr. Hardaway was the basketball coach of East High School in Memphis, Tennessee. At that time, the University of Memphis mens basketball team was coached by Mr. Tubby Smith. Neither Mr. Hardaway nor the University of Memphis nor the Plaintiff knew at that time that Mr. Smith would be terminated in early 2018 and that Mr. Hardaway would subsequently be hired as head coach. Furthermore, the University of Memphis had no face to face recruiting contact with Mr. Wiseman until the fall of 2018.
20. In the summer of 2017, Mr. Wiseman and his mother relocated from Nashville to Memphis to be closer to Wiseman's sister, Ms. Greer, who was a student at the University of Memphis. Mr. Wiseman enrolled as a junior at East High School, where he played for Coach Hardaway.
21. Mr. Wiseman played for Mr. Hardaway's AAU team in the summer of 2017. Between June 9, 2017 and July 28, 2017, Mr. Hardaway provided approximately \$11,500 in

relocation and living expenses to Ms. Artis, the Plaintiff's mother. No one at the University of Memphis had any contemporaneous knowledge of this financial assistance.

22. Although Mr. Hardaway was not affiliated with the University of Memphis in 2017 at the time he gave the financial assistance to Mr. Wiseman's family, the NCAA now asserts that because Mr. Hardaway gave a substantial donation in 2008, he became a representative of the interests of the University of Memphis and remained so through at least the summer of 2017.
23. On or about March 14, 2018, the University of Memphis terminated Mr. Smith as its mens basketball coach. Mr. Hardaway was hired as head coach on or about March 20, 2018.
24. Recruitment staff from the University of Memphis made their first face to face contact with Mr. Wiseman on or about Sept. 10, 2018.
25. After considering other schools Mr. Wiseman signed a letter of intent committing to the University of Memphis on or about Nov. 20, 2018.
26. Between approximately Jan. 25, 2019 and May 17, 2019, the NCAA and the University of Memphis conducted a thorough cooperative assessment and review for Mr. Wiseman's amateurism certification. All information regarding Mr. Hardaway's financial assistance to Ms. Artis and other points of inquiry were shared with the NCAA prior to certification of Mr. Wiseman's eligibility.
27. Mr. Wiseman graduated from East High School on Mary 22, 2019. He received final amateurism certification from the NCAA on or about May 29, 2019.
28. The NCAA subsequently placed the University of Memphis on notice of inquiry

concerning whether Mr. Hardaway provided impermissible benefits to Mr. Wiseman and his family. Additionally, the NCAA asserted that its final certification of Mr. Wiseman was released “inadvertently,” but represented that per its error policy it would honor the released certification.

29. On or about Oct. 31, 2019, in a response to a request for interpretation, the NCAA made the following findings:

- the NCAA found that Mr. Hardaway became a representative of the University of Memphis athletics interests when he donated funds to the athletics department in 2008;
- the NCAA found that Mr. Hardaway maintains his status as a representative “indefinitely;”
- the NCAA found that Mr. Hardaway’s financial assistance to Mr. Wiseman’s mother in 2017 violated the bylaws because he was a representative of the University of Memphis athletics interests.<sup>1</sup>

30. The relevant bylaws with respect to defining a “representative of athletics interests” provide as follows:

A “representative of the institution’s athletics interests” is an individual, independent agency, corporate entity (e.g., apparel or equipment manufacturer) or other organization who is known (or who should have been known) by a member of the institution’s executive or athletics administration to . . .

- (b) Have made financial contributions to the athletics department or to an athletics booster organization of that institution.

NCAA Division I Manual, § 13.02.15 (Representative of Athletics Interests). See excerpts of NCAA Bylaws, attached hereto as collective Ex. “A.”

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<sup>1</sup> “An institution’s staff member or any representative of its athletics interests shall not be involved, directly or indirectly, in making arrangements for or giving or offering to give any financial aid or other benefits to a prospective student-athlete or his or her family members or friends, other than expressly permitted by NCAA regulations. Receipt of a benefit by a prospective student-athlete or his or her family members or friends is not a violation of NCAA legislation if it is determined that the same benefit is generally available to the institution’s prospective students or their family members or friends or to a particular segment of the student body (e.g., international students, minority students) determined on a basis unrelated to athletics ability.” NCAA Division I Manual, § 13.2.1 (Offers and Inducements, General Regulation).

Once an individual, independent agency, corporate entity or other organization is identified as such a representative, the person, independent agency, corporate entity or other organization retains that identity *indefinitely*.

NCAA Division I Manual, § 13.02.15.1 (Duration of Status) (emphasis added).

31. The term “indefinitely” is not defined. If and to the extent such term is deemed ambiguous, it is construed against the drafter.
32. In common usage, the term “indefinite” is defined as follows: “not definite: as *a*: typically designating an unidentified or not immediately identifiable person or thing . . . *b*: not precise . . . *c*: having no exact limits.” WEBSTER’S NINTH NEW COLLEGIATE DICTIONARY (1984) at 612.
33. Based on the plain language of the NCAA bylaws, Mr. Hardaway was a “representative of athletic interests” for the University of Memphis for an *indefinite* period of time following his donation in 2008, but not *in perpetuity* as the NCAA asserts.
34. The financial assistance extended to the Plaintiff’s mother in 2017 was made prior to Mr. Hardaway’s employment as head coach for the University of Memphis, and prior to Mr. Wiseman’s recruitment by the University of Memphis. Additionally, the financial assistance was made long after Mr. Hardaway ceased to be a “representative of athletic interests” under any reasonable interpretation of the bylaws.
35. The financial assistance extended to the Plaintiff’s mother in 2017 by Mr. Hardaway, when he was Mr. Wiseman’s AAU coach and at a time when he had no official relationship with the University of Memphis program, was not a violation of NCAA bylaws and does not render Mr. Wiseman ineligible for intercollegiate competition as a member of the University of Memphis basketball team.

36. The NCAA has deemed Mr. Wiseman ineligible based on its interpretation of the bylaws.

Upon information and belief, the University of Memphis will be seeking reconsideration by the NCAA interpretation committee and an appeal to the Committee on Student-Athlete Reinstatement for restoration of Mr. Wiseman's eligibility.

37. Under the relevant bylaws, the University of Memphis is required to withhold Mr. Wiseman from intercollegiate competition pending appeal:

Once an interpretation . . . applicable to a member institution has been issued and results in the ineligibility of a student-athlete, it is necessary for the institution to apply the rule to the eligibility of the student-athlete, even if review of the interpretation . . . at the request of the institution is pending. Failure to withhold such a student-athlete from competition is a violation of the conditions and obligations of membership.

NCAA Division I Manual, § 12.11.3 (Application of Ineligibility Ruling Pending Appeal).

38. Accordingly, Mr. Wiseman will suffer irreparable harm if the NCAA is not immediately enjoined from declaring him ineligible, and the University of Memphis is not immediately enjoined from withholding him from intercollegiate competition pending the internal appeals process and/or a determination by this Court that the decision was arbitrary and capricious.

#### COUNT I – DECLARATORY JUDGMENT

39. Plaintiff incorporates the allegations of the preceding paragraphs as if fully set forth herein.

40. Pursuant to, *inter alia*, TENN. CODE ANN. §§ 29-14-101, *et seq.*, this Court may enter a Declaratory Judgment determining the rights, status, and other legal relations between the

parties arising out of the contractual relationship between the NCAA and the University of Memphis.

41. Plaintiff has standing to bring this claim as an intended third-party beneficiary of that contractual relationship.

The competitive athletics programs of member institutions are designed to be a vital part of the educational system. A basic purpose of this Association is to maintain intercollegiate athletics as an integral part of the educational program *and the athlete as an integral part of the student body* and, by so doing, retain a clear line of demarcation between intercollegiate athletics and professional sports.

NCAA Division I Manual, § 1.3.1 (Basic Purpose) (emphasis added).

42. Specifically, Plaintiff is entitled to a declaration that the NCAA decision rendering Plaintiff ineligible was arbitrary and capricious, and that the financial assistance rendered by Mr. Hardaway in 2017, while he was the Plaintiff's AAU coach but prior to his becoming the head basketball coach at the University of Memphis, was not a violation of the relevant recruiting guidelines.

#### COUNT II – PROMISSORY ESTOPPEL

43. Plaintiff incorporates the allegations of the preceding paragraphs as if fully set forth herein.
44. Defendant NCAA made specific unambiguous promises regarding Mr. Wiseman's eligibility to play University of Memphis basketball in the 2019-2020 season by issuance of his final amateurism certification decision on or about May 29, 2019.
45. Defendant NCAA made further specific unambiguous promises regarding Mr. Wiseman's eligibility by subsequently representing that it would stand by that decision even though it asserted that the decision was in error.

46. Plaintiff reasonably relied on the NCAA's promises to his detriment and has been damaged by the NCAA's breach of said promises.

**COUNT III – BREACH OF THE IMPLIED COVENANT OF GOOD FAITH  
AND FAIR DEALING**

47. Plaintiff incorporates the allegations of the preceding paragraphs as if fully set forth herein.
48. The covenant of good faith and fair dealing is implied into the contractual relationship between the NCAA and the University of Memphis by operation of law.
49. Plaintiff has standing to bring this claim as a third-party beneficiary.
50. Defendant NCAA has breached the implied covenant of good faith and fair dealing
- by declaring Plaintiff ineligible before the infractions process had been completed and thereby failing to follow the process set forth in its own bylaws;
  - by declaring Plaintiff ineligible and reversing its earlier certification contrary to its stated error policy;
  - by rendering an arbitrary and capricious decision with respect to Plaintiff's eligibility; and
  - by failing to provide Plaintiff the right to participate in intercollegiate competition pending appeal of that decision.

**COUNT V – TORTIOUS INTERFERENCE**

51. Plaintiff incorporates the allegations of the preceding paragraphs as if fully set forth herein.
52. Plaintiff acknowledges that college basketball players are amateurs and not professionals.

Nonetheless, Plaintiff has an existing contractual relationship with the University of Memphis as a student attending classes and participating in student activities including, without limitation, intercollegiate athletics.

53. Defendant NCAA had knowledge of that contractual relationship.
54. Defendant NCAA intended to induce the breach of the contractual relationship between Plaintiff and the University of Memphis by requiring that the University withhold the Plaintiff from participation in intercollegiate athletics on the basis of its arbitrary and capricious decision.
55. Defendant NCAA acted intentionally and with malice in this regard.
56. The conduct of the NCAA is the actual and proximate cause of Plaintiff's damage both in the present, with respect to the denial of Plaintiff's participation in intercollegiate competition at the University of Memphis, and in the future, with respect to the potential loss of Plaintiff's career objectives and his aspirations regarding a career in professional basketball.

#### COUNT IV – INJUNCTIVE RELIEF

57. Plaintiff incorporates the allegations of the preceding paragraphs as if fully set forth herein.
58. Unless the Defendant is restrained by the injunctive relief sought herein, Plaintiff will be deemed ineligible to participate in intercollegiate competition and will be barred from playing for the University of Memphis pending administrative appeal pursuant to the NCAA bylaws.
59. An immediate temporary restraining order pursuant to TENN. R. CIV. P. 65.03 is necessary

to protect Plaintiff's interests and preserve the status quo. Immediate and irreparable injury will result to the Plaintiff before the Defendant NCAA can be heard in opposition because, among other things, the University of Memphis basketball season is ongoing, and the next scheduled game against the University of Illinois - Chicago tips off today at 6:00 p.m.

60. Plaintiff has no adequate remedy at law.
61. Immediate injunctive relief to preserve the status quo will not cause substantial harm to others. On the contrary, injunctive relief will be of great benefit to the University of Memphis and to the public at large.
62. Plaintiff is likely to succeed on the merits, and the harm which will be suffered by the Plaintiff if his requested injunctive relief is not granted substantially outweighs any potential harm to the Defendant NCAA if the injunctive relief is granted.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that this

Honorable Court:

- i. Issue proper service of process upon this Defendant and require it to appear and answer this Complaint;
- ii. Pursuant to TENN. R. CIV. P. 65.03, issue an immediate Temporary Restraining Order enjoining the Defendant NCAA from enforcing its decision declaring the Plaintiff ineligible to participate in intercollegiate competition and enjoining Nominal Defendant University of Memphis from withholding the Plaintiff from intercollegiate competition on the basis of the decision, thereby authorizing and allowing the University of Memphis to play Mr. Wiseman as the coaching staff

- deems appropriate;
- iii. Pursuant to TENN. R. CIV. P. 65.04, issue a Temporary Injunction enjoining the Defendant NCAA from enforcing its decision declaring Plaintiff ineligible to participate in intercollegiate competition and enjoining Nominal Defendant University of Memphis from withholding the Plaintiff from intercollegiate competition on the basis of that decision, thereby authorizing and allowing the University of Memphis to play Mr. Wiseman as the coaching staff deems appropriate;
- iv. Determine that the prior decision of the NCAA declaring Mr. Wiseman ineligible was arbitrary and capricious, and adjudicate Mr. Wiseman's eligibility to participate in University of Memphis basketball for the 2019-2020 season pursuant to NCAA bylaws;
- v. Enter judgment in favor of the Plaintiff and against the NCAA;
- vi. Provide Plaintiff such further and general relief to which he may be entitled.

THIS IS THE FIRST APPLICATION FOR EXTRAORDINARY PROCESS AND RELIEF IN THIS CAUSE.

Respectfully Submitted,

**BALLIN, BALLIN & FISHMAN, P.C.**

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Attorneys for Plaintiff

**CERTIFICATE OF NOTICE**

Pursuant to TENN. R. CIV. P. 65.03, I, the undersigned, hereby certify that I have given notice of the date and time that I have arranged to approach the Court for emergency injunctive relief to the office of the NCAA, by telephone to Jackie A. Thurnes, Director of Enforcement, 317-917-6020, and by emailing a copy of the complaint to jthurnes@ncaa.org.

Randal J. Fishman

OATH

I, James Wiseman, have reviewed the Verified Complaint for Declaratory Judgment and Injunctive Relief in this case and the facts contained herein are true and correct to the best of my knowledge, information and belief.

*James Wiseman*  
\_\_\_\_\_  
James Wiseman

STATE OF TENNESSEE  
COUNTY OF SHELBY

SWORN TO AND SUBSCRIBED before me, a Notary Public for the State and County aforesaid this the 8<sup>th</sup> day of November, 2019.

*Brandy L. Jackson*  
Notary Public

My Commission Expires: August 14<sup>th</sup> 2022



FIAT

TO THE CLERK OF THE COURT:

Upon the filing of the foregoing Verified Complaint, issue a Notice to the Defendant requiring said Defendant to appear on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at \_\_\_\_\_ a.m./p.m. in Part \_\_\_\_\_ of the Chancery Court of Shelby County, Tennessee.

\_\_\_\_\_  
Chancellor

Date: \_\_\_\_\_

EXHIBIT

A



2019-20 NCAA®

# DIVISION I MANUAL

EFFECTIVE  
AUGUST 1, 20

## CONSTITUTION, ARTICLE 1

# Name, Purposes and Fundamental Policy

**1.1 Name.** [\*] The name of this organization shall be "The National Collegiate Athletic Association."

**1.2 Purposes.** [\*] The purposes of this Association are:

- (a) To initiate, stimulate and improve intercollegiate athletics programs for student-athletes and to promote and develop educational leadership, physical fitness, athletics excellence and athletics participation as a recreational pursuit;
- (b) To uphold the principle of institutional control of, and responsibility for, all intercollegiate sports in conformity with the constitution and bylaws of this Association;
- (c) To encourage its members to adopt eligibility rules to comply with satisfactory standards of scholarship, sportsmanship and amateurism;
- (d) To formulate, copyright and publish rules of play governing intercollegiate athletics;
- (e) To preserve intercollegiate athletics records;
- (f) To supervise the conduct of, and to establish eligibility standards for, regional and national athletics events under the auspices of this Association;
- (g) To cooperate with other amateur athletics organizations in promoting and conducting national and international athletics events;
- (h) To legislate, through bylaws or by resolutions of a Convention, upon any subject of general concern to the members related to the administration of intercollegiate athletics; and
- (i) To study in general all phases of competitive intercollegiate athletics and establish standards whereby the colleges and universities of the United States can maintain their athletics programs on a high level.

### **1.3 Fundamental Policy.** [\*]

**1.3.1 Basic Purpose.** [\*] The competitive athletics programs of member institutions are designed to be a vital part of the educational system. A basic purpose of this Association is to maintain intercollegiate athletics as an integral part of the educational program and the athlete as an integral part of the student body and, by so doing, retain a clear line of demarcation between intercollegiate athletics and professional sports.

**1.3.2 Obligations of Member Institutions.** [\*] Legislation governing the conduct of intercollegiate athletics programs of member institutions shall apply to basic athletics issues such as admissions, financial aid, eligibility and recruiting. Member institutions shall be obligated to apply and enforce this legislation, and the infractions process of the Association shall be applied to an institution when it fails to fulfill this obligation. (Revised: 7/31/14)

to be eligible to represent the institution in intercollegiate competition. Violations of this bylaw do not affect a student-athlete's eligibility if the violation occurred due to an institutional administrative error or oversight and the student-athlete is subsequently added to the form; however, the violation shall be considered an institutional violation per Constitution 2.8.1. (See Bylaw 15.5.11 for details about the administration of the squad list.) (Revised: 1/14/97, 11/1/07 effective 8/1/08, 7/31/14, 8/7/14, 10/4/17)

## **12.11 Ineligibility.**

**12.11.1 Obligation of Member Institution to Withhold Student-Athlete From Competition.** If a student-athlete is ineligible under the provisions of the constitution, bylaws or other regulations of the Association, the institution shall be obligated to apply immediately the applicable rule and to withhold the student-athlete from all intercollegiate competition. The institution may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student-athlete's eligibility as provided in Bylaw 12.12 if it concludes that the circumstances warrant restoration. (Revised: 7/31/14)

**12.11.2 Ineligibility Resulting From Recruiting Violation.** An institution shall not enter a student-athlete (as an individual or as a member of a team) in any intercollegiate competition if it is acknowledged by the institution or established through the Association's infractions process that the institution or representative(s) of its athletics interests violated the Association's legislation in the recruiting of the student-athlete. The institution may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student-athlete's eligibility as provided in Bylaw 12.12 if it concludes that the circumstances warrant restoration. (Revised: 7/31/14)

**12.11.2.1 Payment of Legal Fees During Appeal. [A]** An institution may provide actual and necessary expenses for a prospective student-athlete to attend proceedings conducted by the institution, its athletics conference or the NCAA that relate to the prospective student-athlete's eligibility to participate in intercollegiate athletics, provided the prospective student-athlete either has signed a National Letter of Intent with the institution or (if the institution is not a subscribing member of the National Letter of Intent program) the prospective student-athlete has been accepted for enrollment by the institution and has provided written confirmation of his or her intent to enroll at the institution. The cost of legal representation in such proceedings also may be provided by the institution (or a representative of its athletics interests). (Revised: 7/31/14)

**12.11.3 Application of Ineligibility Ruling Pending Appeal.** Once an interpretation (per Constitution 5.4.1.2) applicable to a member institution has been issued and results in the ineligibility of a student-athlete, it is necessary for the institution to apply the rule to the eligibility of the student-athlete, even if review of the interpretation (per Constitution 5.4.1.2.1.1 or 5.4.1.2.2) at the request of the institution is pending. Failure to withhold such a student-athlete from competition is a violation of the conditions and obligations of membership. (Revised: 12/22/08, 7/31/14)

### **12.11.4 Ineligible Participation.**

**12.11.4.1 Loss of Eligibility.** A student-athlete shall be denied eligibility for intercollegiate competition in a sport if he or she participates in intercollegiate competition in that sport while ineligible under this bylaw or other applicable NCAA legislation. The certifying institution may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student-athlete's eligibility if it concludes that the circumstances warrant restoration (see Bylaw 12.12). (Revised: 7/31/14)

## **12.12 Restoration of Eligibility.**

**12.12.1 Basis for Appeal.** When a student-athlete is determined to be ineligible under any applicable provision of the constitution, bylaws or other regulations of the Association, the member institution, having applied the applicable rule and having withheld the student-athlete from all intercollegiate competition, may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student's eligibility, provided the institution concludes that the circumstances warrant restoration of eligibility.

**12.12.2 Participation in Appeal Hearing.** Any appeal to restore a student-athlete's eligibility shall be submitted in the name of the institution by the president or chancellor (or an individual designated by the president or chancellor), faculty athletics representative, senior woman administrator or athletics director (for the men's or women's program). At least one of those individuals must participate in any hearing of the appeal that involves direct participation by the student-athlete or other individuals representing the institution or the student. (Revised: 1/11/94, 3/8/06, 7/31/14)

**12.12.3 Student Responsibility, Relationship to Restoration of Eligibility.** A student-athlete is responsible for his or her involvement in a violation of NCAA regulations (as defined in Bylaw 19), and the Committee on Student-Athlete Reinstatement may restore the eligibility of a student involved in any violation only when circumstances clearly warrant restoration. The eligibility of a student-athlete involved in a major violation shall not be restored other than through an exception authorized by the Committee on Student-Athlete Reinstatement in a unique case on the basis of specifically stated reasons.

- (c) The individual participates in required summer athletic activities before his or her initial full-time enrollment at the certifying institution;
- (d) The individual officially registers, enrolls and attends classes during the certifying institution's summer term prior to his or her initial full-time enrollment at the certifying institution; or
- (e) The individual reports to an institutional orientation session that is open to all incoming students within 14 calendar days prior to the opening day of classes of a regular academic year term.

**13.02.13.1 Exception -- After Commitment.** After an individual has signed a National Letter of Intent or the institution's written offer of admission and/or financial aid or after the institution has received his or her financial deposit in response to its offer of admission, the individual shall no longer be subject to the restrictions of Bylaw 13.1. The individual remains a prospective student-athlete for purposes of applying the remaining provisions of Bylaw 13 and other bylaws. In basketball and football, for institutions that subscribe to the National Letter of Intent program, this exception does not apply to an individual who only signs an institution's written offer of admission and/or financial aid prior to the initial regular (as opposed to early) signing date of the National Letter of Intent program in the applicable sport. In sports other than basketball and football, for institutions that subscribe to the National Letter of Intent program, this exception does not apply to an individual who only signs an institution's written offer of admission prior to the initial signing date of the National Letter of Intent program in the applicable sport. *(Adopted: 4/28/05, Revised: 1/19/13 effective 8/1/13, 4/28/16 effective 8/1/16, 7/9/18)*

**13.02.14 Recruiting.** Recruiting is any solicitation of a prospective student-athlete or a prospective student-athlete's family members by an institutional staff member or by a representative of the institution's athletics interests for the purpose of securing the prospective student-athlete's enrollment and ultimate participation in the institution's intercollegiate athletics program. *(Revised: 4/25/18)*

**13.02.14.1 Recruited Prospective Student-Athlete.** Actions by staff members or athletics representatives that cause a prospective student-athlete to become a recruited prospective student-athlete at that institution are: *(Revised: 1/10/90, 1/11/94 effective 8/1/94, 1/10/05 effective 8/1/05, 12/13/05, 4/26/17 effective 8/1/17, 4/25/18)*

- (a) Providing the prospective student-athlete with an official visit;
- (b) Having an arranged, in-person, off-campus encounter with the prospective student-athlete or the prospective student-athlete's family members; or
- (c) Issuing a National Letter of Intent or the institution's written offer of athletically related financial aid to the prospective student-athlete. Issuing a written offer of athletically related financial aid to a prospective student-athlete to attend a summer session prior to full-time enrollment does not cause the prospective student-athlete to become recruited.

**13.02.15 Representative of Athletics Interests.** A "representative of the institution's athletics interests" is an individual, independent agency, corporate entity (e.g., apparel or equipment manufacturer) or other organization who is known (or who should have been known) by a member of the institution's executive or athletics administration to: *(Revised: 2/16/00, 4/25/18)*

- (a) Have participated in or to be a member of an agency or organization promoting the institution's intercollegiate athletics program;
- (b) Have made financial contributions to the athletics department or to an athletics booster organization of that institution;
- (c) Be assisting or to have been requested (by the athletics department staff) to assist in the recruitment of prospective student-athletes;
- (d) Be assisting or to have assisted in providing benefits to enrolled student-athletes or their family members; or
- (e) Have been involved otherwise in promoting the institution's athletics program.

**13.02.15.1 Duration of Status.** Once an individual, independent agency, corporate entity or other organization is identified as such a representative, the person, independent agency, corporate entity or other organization retains that identity indefinitely. *(Revised: 2/16/00)*

**13.02.16 Significant Other.** A significant other is a spouse, fiancé or fiancée, domestic partner, or any individual whose relationship to an identified individual (e.g., prospective student-athlete, coach, student-athlete) is the practical equivalent of a spouse. *(Adopted: 4/25/18)*

**13.02.17 Telephone Calls.** All electronically transmitted human voice exchange (including videoconferencing and videophones) shall be considered telephone calls. *(Adopted: 1/10/95, Revised: 1/9/96 effective 8/1/96, 1/14/97, 4/27/00 effective 8/1/00, 9/6/00, 4/29/04 effective 8/1/04, 4/26/07 effective 8/1/07)*

**13.02.18 Visits by Prospective Student-Athletes.**

other than a prospective student-athlete's educational institution (except during a dead period per Bylaw 13.02.5.5) without using one of the institution's permissible contacts or evaluations, provided: (Revised: 4/15/09, 10/27/11 effective 8/1/12, 4/25/18)

- (a) The meeting or banquet is initiated and conducted by an entity other than the coach's institution;
- (b) The coach does not make a recruiting presentation in conjunction with the appearance;
- (c) The coach does not have any direct contact with any prospective student-athlete (or a prospective student-athlete's family members) in attendance; and
- (d) The coach does not engage in any evaluation activities.

**13.1.8.3 Attendance During a Quiet or Dead Period – Sports Other Than Women's Basketball.** In sports other than women's basketball, during a quiet period [in sports with recruiting calendars (see Bylaw 13.17)] or a dead period (in all sports), a coaching staff member may attend a meeting or banquet where prospective student-athletes are in attendance, provided: [D] (Adopted: 6/8/99, Revised: 8/14/02, 1/19/13 effective 8/1/13, 12/6/13, 10/30/14, 5/1/19 effective 8/1/19)

- (a) The event is not organized to recognize prospective student-athletes;
- (b) The event is initiated by an entity outside the institution;
- (c) The event is open to the general public; and
- (d) The coach does not evaluate, make a recruiting presentation or have direct contact with any prospective student-athlete (or a prospective student-athlete's family members) in attendance.

**13.1.8.4 Attendance During a Quiet or Dead Period – Women's Basketball.** In women's basketball, a coach is not permitted to attend a banquet or meeting that is designed to recognize prospective student-athletes and that occurs during a quiet period, unless the coach will speak at the function. During a dead period, a coaching staff member may not attend a meeting or banquet where prospective student-athletes are in attendance. (Adopted: 5/1/19 effective 8/1/19)

**13.1.8.5 Postseason Game Exception – Football. [FBS/FCS]** In football, a coach may speak at or attend a meeting or banquet (at which prospective student-athletes are in attendance) in conjunction with the institution's appearance in a postseason contest that occurs during a dead period only if the meeting or banquet is open to the general public, it is a scheduled activity associated with the contest, and the coach does not make a recruiting presentation or have any direct contact with any prospective student-athlete (or a prospective student-athlete's family members) in attendance. (Adopted: 9/15/97, Revised: 4/25/18)

**13.1.8.6 NCAA Promotional Activities Exception.** An institution's coach may participate in NCAA promotional activities (e.g., autograph sessions, fan festivals and opening ceremonies) at NCAA championship events, provided contacts with prospective student-athletes are not prearranged and recruiting activities do not occur. (Adopted: 4/28/05)

**13.1.9 Funeral/Memorial Services.** An institutional staff member may attend the funeral or memorial services of a student-athlete, a prospective student-athlete or a member of the student-athlete's or a prospective student-athlete's family, at which prospective student-athletes also may be in attendance, provided no recruiting contact occurs. (Adopted: 4/28/05, Revised: 1/15/11 effective 8/1/11, 4/28/16 effective 8/1/16, 5/1/19)

**13.1.10 Conference-Sponsored Sportsmanship Initiatives.** A conference office may coordinate sportsmanship initiatives that may involve prospective student-athletes and their educational institutions subject to the following conditions (see Bylaws 13.4.3.4, 13.10.2.3 and 13.15.1.8): [D] (Adopted: 4/26/07 effective 8/1/07, Revised: 10/30/14)

- (a) Any participating prospective student-athlete must attend a high school within a 30-mile radius of a conference member institution's campus;
- (b) Any initiative that requires the actual presence of a prospective student-athlete shall not take place on an institution's campus; and
- (c) An institution's student-athletes may participate, subject to the conditions of Bylaw 12.5.1.1.

## **13.2 Offers and Inducements.**

**13.2.1 General Regulation.** An institution's staff member or any representative of its athletics interests shall not be involved, directly or indirectly, in making arrangements for or giving or offering to give any financial aid or other benefits to a prospective student-athlete or his or her family members or friends, other than expressly permitted by NCAA regulations. Receipt of a benefit by a prospective student-athlete or his or her family members or friends is not a violation of NCAA legislation if it is determined that the same benefit is generally available to the institution's prospective students or their family

members or friends or to a particular segment of the student body (e.g., international students, minority students) determined on a basis unrelated to athletics ability. [R] (Revised: 10/28/97, 11/1/00, 3/24/05, 4/25/18)

**13.2.1.1 Specific Prohibitions.** Specifically prohibited financial aid, benefits and arrangements include, but are not limited to, the following: [R] (Revised: 10/28/97, 11/1/00, 4/23/08, 4/25/18)

- (a) An employment arrangement for a prospective student-athlete's family members;
- (b) Gift of clothing or equipment;
- (c) Co-signing of loans;
- (d) Providing loans to a prospective student-athlete's family members or friends;
- (e) Cash or like items;
- (f) Any tangible items, including merchandise;
- (g) Free or reduced-cost services, rentals or purchases of any type;
- (h) Free or reduced-cost housing;
- (i) Use of an institution's athletics equipment (e.g., for a high school all-star game);
- (j) Sponsorship of or arrangement for an awards banquet for high school, preparatory school or two-year-college athletes by an institution, representatives of its athletics interests or its alumni groups or booster clubs; and
- (k) Expenses for academic services (e.g., tutoring, test preparation) to assist in the completion of initial-eligibility or transfer-eligibility requirements or improvement of the prospective student-athlete's academic profile in conjunction with a waiver request.

**13.2.1.2 Additional Prohibition -- Consulting Fees -- Men's Basketball.** In men's basketball, an institution or staff member shall not provide a consulting fee to an individual associated with a prospective student-athlete or to a consulting firm in which an individual associated with a prospective student-athlete has a proprietary or financial interest. (Adopted: 8/26/10)

**13.2.1.3 Additional Prohibition -- Consulting Fees -- Bowl Subdivision Football. [FBS]** In bowl subdivision football, an institution or staff member shall not provide a consulting fee to an individual associated with a prospective student-athlete or to a consulting firm in which an individual associated with a prospective student-athlete has a proprietary or financial interest. (Adopted: 4/26/17 a contract signed before 1/18/17 may be honored)

**13.2.1.4 Notification of Ineligibility and Consequences -- Basketball.** If a violation of Bylaw 13.2.1 occurs in which an institution or a basketball staff member employed (either on a salaried or volunteer basis) an individual associated with a recruited prospective student-athlete at the institution's camp or clinic, the institution shall declare each involved prospective student-athlete ineligible. Within 30 days of becoming aware of the violation, the institution shall provide written notification to each involved prospective student-athlete that the actions of the institution affected the prospective student-athlete's eligibility. The written notification shall also include an explanation of the consequences of the violation for the prospective student-athlete. (Adopted: 8/12/10, Revised: 4/26/17 effective 8/1/17)

**13.2.1.5 Notification of Ineligibility and Consequences -- Football. [FBS/FCS]** If a violation of Bylaw 13.2.1 occurs in which an institution or staff member employed (either on a salaried or volunteer basis) an individual associated with a recruited prospective student-athlete at the institution's camp or clinic, the institution shall declare each involved prospective student-athlete ineligible. Within 30 days of becoming aware of the violation, the institution shall provide written notification to each involved prospective student-athlete that the actions of the institution affected the prospective student-athlete's eligibility. The written notification shall also include an explanation of the consequences of the violation for the prospective student-athlete. (Adopted: 4/26/17)

**13.2.2 Institutional Pre-Enrollment Fees. [A]** An institution may waive, pay in advance or guarantee payment of any institutional pre-enrollment fee for a prospective student-athlete who has signed a National Letter of Intent or the institution's written offer of admission and/or financial aid or for whom the institution has received a financial deposit in response to its offer of admission. A pre-enrollment fee is one that is required by the institution for enrollment and includes the following: (Adopted: 1/15/16)

- (a) The institution's processing fee required prior to the admissions office's evaluation of the prospective student-athlete's application;
- (b) The orientation-counseling tests fee required of all incoming students;
- (c) The preadmission academic testing fee;
- (d) Advance tuition payment for a prospective student-grantee;